



PUBLIC NOTICE

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Federal Communications Commission
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DA 03-4058
December 19, 2003

COMMENTS INVITED ON APPLICATION OF TOUCH AMERICA, INC.
(DEBTOR-IN-POSSESSION) TO DISCONTINUE DOMESTIC
TELECOMMUNICATIONS SERVICES
WC Docket No. 03-259

Comp. Pol. File No. 667

Comments Due: January 9, 2004

Section 214 Application

Applicant: Touch America, Inc. (Debtor-in-Possession)

On December 8, 2003, **Touch America, Inc. (Debtor in Possession)** (Touch America DIP or Applicant), located at **130 North Main Street, Butte, Montana 59701-9331**, filed an application with the Federal Communications Commission (FCC or Commission), requesting authority, under section 214(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 214(a), and section 63.71 of the Commission's rules, 47 C.F.R. § 63.71, to discontinue the provision of its domestic, interstate, interexchange Asynchronous Transfer Mode (ATM) and Frame Relay services in the contiguous United States.

The application indicates that Touch America DIP currently provides domestic, interstate, interexchange ATM and Frame Relay services to approximately 350 customers located in Alabama, Arizona, California, Colorado, Florida, Georgia, Iowa, Idaho, Illinois, Indiana, Kansas, Massachusetts, Maryland, Michigan, Minnesota, Missouri, Mississippi, Montana, North Carolina, North Dakota, Nebraska, New Jersey, New Mexico, Nevada, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin, West Virginia, and Wyoming. Touch America DIP states that it primarily provides these services to commercial customers and to Northrop Grumman, a prime contractor with the U.S. Department of Treasury. According to Touch America DIP, the services provided to these customers range in capacity from DS-0 to OC-3, but the majority of customers take services in the DS-0 to DS-1 range.

The application indicates that on June 19, 2003, Touch America Holdings, Inc. and several subsidiaries including Touch America, Inc., filed voluntary petitions under Chapter 11 of the bankruptcy code in order to reorganize their business and financial structure. Touch America

DIP states that as a result of its financial inability to maintain ATM/Frame Relay services indefinitely, it plans to discontinue providing these services on January 31, 2004, and that, on December 2, 2003, it notified its customers in writing of this planned discontinuance of service.

In accordance with 47 C.F.R. § 63.71(c), the application will be deemed to be automatically granted on the thirty-first (31st) day after the release date of this notice, unless the Commission has notified Touch America DIP that the grant will not be automatically effective. In Touch America DIP's application and notice to customers, Touch America DIP indicated that it would not discontinue service until January 31, 2004. Accordingly, pursuant to section 63.71(c), absent further Commission action, Touch America DIP may not terminate service to its customers until January 31, 2004. The Commission will normally authorize proposed discontinuances of service unless it is shown that customers or other end users would be unable to receive service or a reasonable substitute from another carrier, or that the public convenience and necessity would be otherwise adversely affected.

This proceeding is considered a "permit but disclose" proceeding for purposes of the Commission's *ex parte* rules, 47 C.F.R. §§ 1.1200-1.1216. Comments objecting to this application must be filed with the Commission on or before **January 9, 2004**. Such comments should refer to **WC Docket No. 03-259 and Comp. Pol. File No. 667**. Comments should include specific information about the impact of this proposed discontinuance on the commenter, including any inability to acquire reasonable substitute service. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send e-mail to ecfs@fcc.gov, and should include the following words in the subject line "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must send an original and four (4) copies of the comments to the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, D.C. 20554. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Two (2) copies of the comments should also be sent to the Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 6-A207, Washington, D.C. 20554, Attention: Carmell Weathers. In addition, comments should be served upon the Applicant. Commenters are also requested to fax their comments to the FCC at (202) 418-2345, Attention: Carmell Weathers.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will

receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

The application will be available for review and copying during regular business hours at the FCC Reference Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554, (202) 418-0270. A copy of the application may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail at qualexint@aol.com.

For further information, contact Carmell Weathers, (202) 418-2325 (voice), carmell.weathers@fcc.gov, or Brad Koerner, (202) 418-0866 (voice), brad.koerner@fcc.gov, of the Competition Policy Division, Wireline Competition Bureau. The TTY number is (202) 418-0484. For further information on procedures regarding Section 214 please visit [http://www.fcc.gov/wcb/cpd/other adjud](http://www.fcc.gov/wcb/cpd/other_adjud).

-FEDERAL COMMUNICATIONS COMMISSION-